

Congress of the United States
House of Representatives
Washington, DC 20515-3705

October 16, 2023

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Buttigieg:

Thank you for appearing before the House Committee on Transportation and Infrastructure on September 20th. I appreciated the opportunity to share an overview of serious policy and process problems regarding the Oregon Department of Transportation's (ODOT) efforts to impose tolling on Oregonians.

I am concerned that the U.S. Department of Transportation (DOT) currently approaches tolling with such uncritical deference. In Oregon, tolling moves forward despite intense public opposition, vague and shifting proposals, insufficient studies, superficial public outreach, and no cohesive mitigation strategy. Local leaders and residents furnish pages of concerns. Yet so far DOT, including the Federal Highway Administration (FHWA), stands aloof.

At the hearing, you emphasized and reiterated the importance of a tolling applicant adhering to the NEPA process. You indicated that failure to follow the process could result in the denial of tolling at the federal level. I respectfully bring to your attention how ODOT's rollout for tolling has been deeply flawed and mismanaged.

The following is by no means an exhaustive compilation of concerns with tolling in Oregon, however, please acknowledge these concerns from local officials and constituents:

- **Flawed Draft I-205 Environmental Assessment (EA).** Issued in February 2023, the EA galvanized opposition from residents and communities across the region. In my June 1st letter to FHWA Administrator Bhatt, and again at the Congressional hearing, I summarized some of these concerns. The EA fails to recognize that tolling will not reduce congestion; congestion will merely be moved into local communities when traffic chooses to divert onto city and county roads that are not equipped to handle the new volume. Additionally, there is a reoccurring theme: no dependable commitment to a mitigation plan or strategy with respect to tolling impacts.

It is my understanding that ODOT has not responded to certain public comments, including a detailed 36-page letter, from Clackamas County on the EA. This is in addition to public comments from local communities. I am informed that ODOT has indicated they will *eventually* respond to themes from these comments, which only exacerbates the lack of transparency local communities are feeling as they seek to understand the impact of tolling.

In an 11-page letter dated April 21, 2023, Lake Oswego raised concerns with the EA but also flagged inconsistencies with ODOT's own Analysis Procedures Manual and exposed gaps in ODOT's Transportation Technical Report. ODOT is shown to have advanced dubious assumptions, weak or unrealistic analysis, and omitted pertinent information for various locations and intersections.

Multiple cities in Clackamas County issued letters in response to the EA: Canby, Happy Valley, Lake Oswego, Oregon City, Tualatin, West Linn, and Wilsonville. Now, I understand ODOT plans to embark on a new "supplemental" EA despite stonewalling local concerns expressed regarding the initial EA. In the interim, there is no new or revised EA for public scrutiny or discussion. ODOT's momentum for tolling appears to continue while significant issues remain unacknowledged and unresolved.

- **Ambiguity over multiple tolling proposals.** The communities and constituents in my district are generally aware of (and opposed to) proposed tolling on I-205 and I-5 in Oregon. However, ODOT has not clearly communicated the distinctions between these projects or unequivocally stated a course of action so a meaningful process can take place.

Tolling proposals have changed over the months for both I-205 Improvements and for the Regional Mobility Pricing Project (RMPP). The I-205 proposal shifted from tolling along a seven-mile stretch of highway in order to pay for a new lane to resolve a regional bottleneck, to merely tolling the improved Abernethy Bridge. The section of I-205 that was originally included as part of the I-205 toll program has now been included in the draft RMPP project but no longer includes a plan to build the missing third lane. Along with these quick changes to the draft projects, ODOT has still not identified the full scope of the RMPP project. In fact, I understand there are as many as three scenarios under consideration. Although there are perfunctory nods to follow NEPA, it is still unclear what the project(s) would be. Major transportation projects can require modifications, but the public is left confused from the outset on the outcomes. I hope you would agree that a process that doesn't clearly state a project, or is frequently revising the project, is not a transparent process.

- **Failed ODOT public outreach.** At the hearing, I referred to the ODOT official admitting over the summer that they "missed the mark" on public outreach. More recently, a letter from the Mayor of West Linn, dated September 28th, walks through problems with the ODOT public opinion survey involving the RMPP. The survey contains leading questions that create a disingenuous appearance of public support for tolling. Here are noteworthy excerpts from the letter:

- “The survey distributed by ODOT appears to represent an attempt by ODOT to manipulate public input in order to receive only positive feedback for ODOT’s plan to institute the Regional Mobility Pricing Project.”
- “Notably absent from the responses to that question is an answer choice that allows community members to state that they do not prefer a tolling system.”
- **ODOT “Nexus List” for tolling on I-5 and I-205.** At the request of ODOT, the county and local communities are compiling an ongoing list of projects anticipated to be impacted by tolling. **This nexus list includes 150+ projects from Clackamas communities alone, and over 200 projects from the region at large.** This may appear to be part of the “process,” however, this has added to the confusion.

In a letter dated September 7th, 2023, the Clackamas County Coordinating Committee (C4 Committee) explains that county and city staff compiled the list, at the request of ODOT, within the constraints of “a short timeframe and with no toll project related technical data.” The letter adds, “It remains unclear how ODOT intends to use the nexus list in the implementation plan...we are not confident that sufficient public discussion has occurred for our communities to trust that this list will be used in a way in which we agree.”

The letter flags that the proposed tolling programs would not yield sufficient revenue to pay for state prioritized projects, including construction of the third lane on I-205 to resolve the bottleneck, or the projects in the nexus list. In terms of public policy, this exposes a major flaw in ODOT’s proposed tolling as a revenue source. Arguably, the larger public policy issue is for the State of Oregon to address the overall revenue and infrastructure challenges without recourse to tolling.

It is important to note that as part of the NEPA process, any impacts attributed to the toll project that meet the threshold to become a NEPA mitigation will have to be paid for as part of the toll project. However, the issue is that the threshold that ODOT established for what qualifies as a NEPA mitigation is so high that very few projects will qualify, and the rest of the impacts will be pushed off onto local jurisdictions to manage. The sheer size and scale of this nexus list demonstrates the possible impacts to local communities that should be included as NEPA required mitigation.

Aside from the process confusion that arises from the document, the list itself shows the extent that Clackamas County, Canby, Gladstone, Happy Valley, Lake Oswego, Oregon City, Tualatin, West Linn, and Wilsonville would need to devote taxpayer dollars to accommodate tolling. The 150+ projects in the communities include a range of actions: revised or new intersections and roundabouts; new bridges; adjusted or new lanes, including turn lanes and ramps; changes to signs, lights, signals; crossings, bike paths, sidewalks, among others.

Mr. Secretary, from one former mayor to another, I ask that you give these concerns your attention. Sources cited above—in addition to more extensive local opposition to tolling—are

hosted online at www.clackamas.us/transportation/odot-tolling. The nexus list is still in development but can be shared.

It is my position that tolling on I-205 and I-5 should be denied on policy and process grounds. To the extent granted under federal laws and regulations, please bring this avoidable disaster to a halt. At a minimum, I ask you to please bring greater oversight and accountability from DOT to this broken process. By so doing, I believe tolling can ultimately be set aside, and we can move forward with real transportation solutions for Oregonians.

Sincerely,

A handwritten signature in blue ink that reads "Lori Chavez-DeRemer". The signature is written in a cursive, flowing style.

Lori Chavez-DeRemer
Member of Congress